

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the
Commission's Own Motion into Monitoring
Performance of Operations Support Systems.

Rulemaking 97-10-016
(Filed October 9, 1997)

Order Instituting Rulemaking on the
Commission's Own Motion into Monitoring
Performance of Operations Support Systems.

Investigation 97-10-017
(Filed October 9, 1997)

**ADMINISTRATIVE LAW JUDGE'S RULING
TO FACILITATE IMPLEMENTATION OF THE
OPERATIONS SUPPORT SYSTEM
PERFORMANCE INCENTIVES PLAN FOR
PACIFIC BELL TELEPHONE COMPANY**

The purpose of this ruling is to facilitate implementation of the Commission's performance incentive plan (PIP) for Pacific Bell Telephone Company (Pacific) adopted March 6, 2002, in Decision (D.) 02-03-023. In addition, this ruling seeks to advise Competitive Local Exchange Carriers (CLECs) that were not active participants in this proceeding, of their responsibilities, options, expectations, and timeline regarding the PIP. In brief, the PIP will address performance beginning with the month of April 2002, and will supersede the CLEC performance remedy plans currently in CLEC-Pacific Interconnection Agreements (ICA). Any monetary incentive amounts generated by the PIP will now be rate adjustments disbursed as bill credits, and are scheduled for disbursement no later than fifty days after the last day of the month being assessed. In the case of the PIP's first month of implementation, April 2002, bill credits will be made by June 19, 2002.

D.02-03-023 requires Pacific to offer the PIP to each CLEC. By an accessible letter¹ dated April 4, 2002, Pacific has made this offer, although it may not have comprehensively described some CLECs' options.²

In many cases, the CLECs active in this proceeding have provisions in their ICAs that automatically replace existing ICA performance incentive agreements with the PIP. However, some CLECs do not have such provisions and some CLECs may not have any performance incentives provisions. These CLECs must either (1) accept the PIP, and file an amendment³ to their ICA noting the acceptance; (2) file an amendment to their ICA declining to receive performance incentives credits from the Commission's PIP; or (3) jointly file a motion with Pacific in this docket requesting the Commission approve an alternate performance incentive plan. If a CLEC and Pacific choose to jointly file a motion requesting the Commission approve an alternate performance incentives plan, the Commission's PIP shall apply, until such approval is granted. Alternative plans or plan modifications approved by the Commission shall be implemented commencing with the first full month following the date of the approval unless the agreement specifies a later date.

¹ An accessible letter is the mechanism by which Pacific publishes and transmits information to all CLECs. The letter is sent to each CLEC and posted on Pacific's CLEC website.

² In fact, a draft decision will be published imminently that clarifies and modifies D.02-03-023, on the Commission's own motion, by setting forth each option in detail in the decision's ordering paragraphs. With the guidance of this ruling, Pacific and the other interested parties may complete the preliminary requisite implementation tasks.

³ In accordance with Rule 6.2 of Resolution ALJ-181.

Alternative performance incentives plans that alter the basic principles or structure of the PIP are unlikely to be approved. The most important such principles are how the overall incentive amount is scaled to performance, and how credits are proportionally distributed to the CLECs and the ratepayers. An example of an unacceptable plan is the SBC thirteen-state generic performance measurements plan, which has no ratepayer credit provisions, among other possible incentive amount and structure differences.

To preserve the PIP's incentive structure, as stated above, the PIP will be in effect for each CLEC until a new or existing CLEC-Pacific plan agreement receives formal Commission approval. Plan changes can easily alter the structure and balances formally established in D.02-03-023; therefore, except for good cause shown, changes should be pursued in the appropriate phase of this proceeding. For example, changes to performance measures should be addressed in the annual review of performance measures in this docket. Changes to the performance assessment and incentive provisions are best addressed at the end of the initial six-month implementation period as specified in rulings pursuant to D.02-03-023.

Therefore, **IT IS RULED** that:

1. Beginning with the Operations Support System (OSS) performance results for April 2002, the first month of implementation of the Commission's performance incentive plan (PIP), Pacific Bell Telephone Company's (Pacific) OSS performance results for all Competitive Local Exchange Carriers (CLECs) will be subject to the PIP as specified in Appendix J of D.02-03-023, unless pursuant to motion jointly filed by Pacific and an interested CLEC in this docket, the Commission formally approves a new or modified plan negotiated with Pacific.

2. The first billing credits from the PIP will be due by June 19, 2002.
3. New plan or plan modification agreements approved by the Commission shall be implemented for performance for the first full month following the date of the approval unless the agreement specifies a later date.

Dated April 29, 2002, at San Francisco, California.

/s/ JACQUELINE A. REED

Jacqueline A. Reed
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling to Facilitate Implementation of the OSS Performance Incentives Plan for Pacific Bell Telephone Company on all parties of record in this proceeding and all certificated Competitive Local Exchange Carriers or their attorneys of record.

Dated April 29, 2002, at San Francisco, California.

/s/ TERESITA C. GALLARDO
Teresita C. Gallardo

N O T I C E

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